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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Inventor(s):** Mark Berman and Richard Glen Thousand  
**Application Serial No:** 09/928,622  
**Application Filing Date:** August 13, 2001 (08/13/2001)  
**Patent No:** n/a  
**Patent Issue Date:** n/a  
**Title:** Energy detect with auto pair select

**Examiner:** n/a  
**Art Group:** 2181  
**Confirmation No:** 7999  
**Attorney Docket No:** BP1520

Date: Friday, August 20, 2004 (08/20/2004)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

(1) PETITION UNDER 37 C.F.R. §1.78(a)(3) FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. §120 AND (2) 2<sup>nd</sup> PRELIMINARY AMENDMENT

Dear Sir or Madam:

(1) PETITION UNDER 37 C.F.R. §1.78(a)(3) FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. §120

The Applicant hereby petitions under 37 C.F.R. §1.78(a)(3) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 in the above-referenced application.

The Applicant mailed a 1<sup>st</sup> preliminary amendment on February 13, 2003 (02/13/2003) in an attempt to assert the unintentionally delayed claim for priority under 35 U.S.C. § 120.

The Applicant herewith submits a 2<sup>nd</sup> preliminary amendment amending that priority claim so that it complies with 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2); the Applicant herewith submits the surcharge forth in §1.17(t); and the Applicant hereby states that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(1)(ii) and the date the claim was filed was unintentional.

The Applicant respectfully requests that the Examiner enter the "CROSS REFERENCE TO RELATED APPLICATIONS" as amended within the (2) 2<sup>nd</sup> PRELIMINARY AMENDMENT provided below.